

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Attorney Docket No.: 612,404-412
First Named Inventor: Michael J. Heller et al.
Prior Application Information:
Serial No. 09/496,864
Examiner: Ardin Marschel
Art Unit: 1631

Mail Stop Patent Application
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

FILING UNDER 37 CFR § 1.53(b)

This is a request for filing for a

☒ continuation ☐ divisional ☐ continuation-in-part (CIP)

application under 37 CFR § 1.53(b) of pending prior application Serial No. 09/496,864 filed
on February 2, 2000,

MICHAEL J. HELLER et al, entitled:

METHODS FOR ELECTRONIC FLUORESCENT PERTURBATION
FOR ANALYSIS AND ELECTRONIC PERTURBATION
CATALYSIS FOR SYNTHESIS

For CONTINUATION or DIVISION APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied, referenced above, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation can only be relied upon when a portion has been inadvertently omitted from the submitted application parts.

CERTIFICATE OF MAILING

(37 C.F.R. §1.10)

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as 'Express Mail Post Office To Addressee' in an envelope addressed to the Assistant Commissioner for Patents, Washington, D.C. 20231.

EV337191054US

Express Mail Label No.

July 18, 2003

Date of Deposit

IR1:1045113.1

Denise N. Doss

Name of Person Mailing Paper

Denise N. Doss

Signature of Person Mailing Paper



I. APPLICATION ELEMENTS ENCLOSED

- 29 Page(s) of Written Description
2 Page(s) of Claims
1 Page(s) of Abstract
12 Sheet(s) of Drawings ☒ formal ☐ informal
4 Page(s) of ☒ Declaration or ☐ Declaration and Power of Attorney
☐ Copy from prior application [37 CFR §1.63(d)]
☒ Newly executed
2 Page(s) of Power of Attorney
☒ Copy from prior application [37 CFR §1.63(d)]
- ☒ An Information Disclosure Statement, PTO 1449, ☐ with copies of cited items.
☐ Statement Under 37 CFR 1.821(e) and paper copy of Sequence Listing
☐ Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i). Applicant must attach form PTO/SB/35

II. FEE CALCULATION

- ☒ Applicant claims small entity status under 37 CFR 1.27.

BASIC FILING FEE:							\$750.00
Total Claims	12	-	20	=	1	x \$18.00	0
Independent Claims	1	-	3	=	1	x \$84.00	0
Multiple Dependent Claims	\$280	(if applicable)				<input type="checkbox"/>	0
TOTAL OF ABOVE CALCULATIONS							\$750.00
Reduction by ½ for Filing by Small Entity.							<input checked="" type="checkbox"/> 375.00
Misc. Filing Fees (Recordation of Assignment)							0
TOTAL FEES DUE SUBMITTED HEREWITH							\$375.00

III. PRIORITY - 35 USC § 119

- ☐ Priority of application Serial No. _____ filed on _____ in Country is claimed under 35 USC § 119.
- ☐ The certified copy has been filed in prior U.S. application Serial No. _____ on _____.
- ☐ The certified copy will follow.

IV. AMENDMENTS

- ☐ Cancel in this application original Claims _____ of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes if no new claims are added in a preliminary amendment.)
- ☐ A Preliminary Amendment is enclosed. (Claims added by Amendment must be numbered consecutively beginning with the number next following the highest numbered original claim in the prior application.)

V. RELATE BACK - 35 USC § 120

- ☒ Relate back information included in the specification and is as follows:
 - This application is a continuation application of Application Serial No. 08/496,864, filed February 2, 2000, which is a continuation application of Application Serial No. 08/855,058, filed May 14, 1997, entitled "Methods for Electronic Fluorescent Perturbation for Analysis and electronic Perturbation Catalysis for Synthesis," issued as U.S. Patent No. 6,048,690, which is a continuation-in-part application of Application Serial No. 08/534,454, filed September 27, 1995, entitled "Methods for Hybridization Analysis Utilizing Electrically Controlled Hybridization", now issued as U.S. Patent No. 5,849,486, all of which are incorporated herein by reference as if fully set forth herein.--
- ☒ With respect to the prior co-pending U.S. application from which this application claims benefit under 35 USC § 120, the inventor(s) in this application is (are) [37 CFR 1.53(b)(1)]:
 - ☒ the same.
 - ☐ less than those named in the prior application and it is requested that the following inventor(s) identified above for the prior application be deleted [see 37 CFR §§1.33(b) AND 1.63(d)(2)]:

VI. METHOD OF PAYMENT OF FEES

- ☒ Attached is a check in the amount of \$375.00.
- ☐ Credit overpayment in the amount of _____ to O'Melveny & Myers Deposit Account No. **500639**
- ☐ Not attached. No filing fee is submitted. [This and the surcharge required by 37 CFR § 1.16(e) can be paid subsequently.]

VII. AUTHORIZATION TO CHARGE ADDITIONAL FEES

The Commissioner is hereby authorized to credit O'Melveny & Myers' Deposit Account No. **50-0639** or any over payment of fees and to charge the following additional fees by this paper and during the entire pendency of this application to Deposit Account No. **50-0639**:

- ☒ 37 CFR § 1.16 (Filing fees and excess claims fees)
- ☒ 37 CFR § 1.17 (Application processing fees)
- ☐ 37 CFR § 1.21 (Assignment recordation fees)

VIII. POWER OF ATTORNEY & CORRESPONDENCE ADDRESS

- ☐ The power appears in the original papers in the prior application.
- ☒ The revocation and new power does not appear in the original papers, but was filed on December 10, 2002 in prior application Serial No. 09/496,864, a copy of which is attached.
- ☐ A new power has been executed and is attached.

Please send all correspondence and direct all inquiries to David B. Murphy at:



34263

PATENT TRADEMARK OFFICE

O'Melveny & Myers LLP
114 Pacifica, Suite 100
Irvine, CA 92618-3315
(949) 737-2900

IX. MAINTENANCE OF CO-PENDENCY OF PRIOR APPLICATION

- ☐ A petition, fee and response has been filed to extend the term in the pending **prior** application until _____. A copy of the petition for extension of time in the **prior** application is attached.
- ☐ A conditional petition for extension of time is being filed in the pending **prior** application. A copy of the conditional petition for extension of time in the **prior** application is attached.

X. ABANDONMENT OF PRIOR APPLICATION

- ☐ Please abandon the prior application at a time while the prior application is pending or when the petition for extension of time or to revive in that application is granted and when this application is granted a filing date so as to make this application co-pending with said prior application. At the same time, please add the words "now abandoned" to the amendment of the specification set forth in Item V above.

Respectfully submitted,
O'MELVENY & MYERS LLP

Dated: July 18, 2003

By: David B. Murphy
David B. Murphy
Reg. No. 31,125

DKW/dnd
Enclosures

Nanogen, Inc.
Name of Assignee
10398 Pacific Center Court, San Diego, California 92121
Address of Assignee
Howard J. Birndorf, Chairman and Chief Executive Officer
Title of person authorized to sign on behalf of assignee
Recorded in PTO: November 10, 1997 at Reel 8878, Frame 0419 for
Application Serial No. 08/855,058